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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

2:17-CR-00235-WFN

V.

JAMES E. FOOTE.

Defendant.

**UNITED STATES' NOTICE OF
REVIEW OF PRESENTENCE
INVESTIGATION REPORT
AND SENTENCING
RECOMMENDATION**

Plaintiff United States of America, by and through Joseph H. Harrington, Acting United States Attorney for the Eastern District of Washington, and James A. Goeke, Assistant United States Attorney for the Eastern District of Washington, submits the following Notice of Review of the Presentence Investigation Report (hereinafter “PSR”) prepared by United States Probation Officer Cassie Lerch, dated March 9, 2021.

**UNITED STATES' NOTICE OF REVIEW OF PRESENTENCE
INVESTIGATION REPORT**

On June 23, 2020 Defendant James E. Foote (hereinafter “FOOTE” or “Defendant”), entered a guilty plea to Count 1 of the Indictment in this case that charges FOOTE with Possession with Intent to Distribute 50 Grams or More of Actual Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii). The sentencing hearing is scheduled for April 19, 2020 in Spokane, Washington.

The United States has reviewed the PSR at ECF No. 59 and determined, based upon information that is presently available, that the PSR is factually complete and accurate.

A. The Sentencing Guideline Calculations and Statutory Provisions.

The United States Probation Office has determined that Defendant's base offense level for his conviction for Possession with Intent to Distribute 50 Grams or More of Actual Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii), is level 32 pursuant to USSG §2D1.1(a)(5) and (c)(4). PSR ¶ 31. The United States Probation Office also determined that a three-level reduction for acceptance of responsibility pursuant to USSG §3E1.1 is applicable. PSR ¶¶ 33-35. The United States concurs with the USSG calculations set forth in the PSR. Accordingly, FOOTE's total adjusted offense level is 29. PSR ¶ 35. FOOTE has three criminal history points and falls in Criminal History Category II. PSR ¶¶ 37-181.

Based on the foregoing, Defendant faces a sentencing range of 97-121 months incarceration with an applicable 120-month mandatory minimum, as well as at least five years of supervised release, up to a lifetime term of supervised release. PSR ¶ 235. Pursuant to the Plea Agreement, the United States agreed to recommend a sentence of imprisonment at the low end of the applicable sentencing range and a term of supervised release of at least five years. ECF No. 46 at 7-8.

B. Special Penalty Assessment, Forfeiture, and Restitution.

A special penalty assessment of \$100 is required. PSR ¶ 224. The United States does not seek imposition of a fine or forfeiture from Defendant.

UNITED STATES' SENTENCING RECOMMENDATION.

Based on the foregoing, consistent with the Plea Agreement, the United States recommends a sentence at the low end of the USSG guideline range as calculated by the Court, along with a ten-year term of supervised release and a \$100 special assessment. The United States submits that a sentence of incarceration of at the low-end of the USSG range is minimally sufficient to deter and punish Defendant for the crime of conviction.

Respectfully submitted, this 14th day of April, 2021.

Joseph H. Harrington
Acting United States Attorney

s/ James A. Goeke
James A. Goeke
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Counsel of Record for Defendant:

s/ James A. Goeke
James A. Goeke
Assistant United States Attorney